IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07..01..2005.

CORAM

THE HON'BLE MR.MARKANDEY KATJU, CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.MURUGESAN

W.P.No.14449 of 2002

P.Veeraragavan,
S/o Palamalai Pillai,
13, B4, Sambasivam Pillai Street,
Ariyalur. ..Petitioner.

Vs.

1. The State of Tamil Nadu,
rep. by its Chief Secretary,
Fort St.George,
Chennai - 9.

2. The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai - 9.

3. The Principal Commissioner &
Commissioner of Revenue Administration,
Ezhilagam, Chennai - 600 005.

4. Dr.J.Jayalalithaa,
General Secretary,
All India Anna Dravida Munnettra Kazhagam,
Avvai Shanmugam Road,
Royapettah,
Chennai - 14. ..Respondents.

PRAYER: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus, as stated therein.

For Petitioner :: Mr.N.G.R.Prasad
for Mr.G.Purushothaman

For Respondents 1 to 3 :: Mr.V.Raghupathy,
Government Pleader.

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O R D E R

THE HON'BLE THE CHIEF JUSTICE

This writ petition has been filed for a writ of certiorari to quash the impugned notification in G.O.Ms.No.168, Revenue (R.A.I (1)) Department dated 19.04.2002, and for a mandamus to direct respondents 1 to 3 to issue orders for continuation of Ariyalur District with Headquarters at Ariyalur.

2. Heard learned counsel for the parties.

3. The petitioner has stated that he is a Senior Citizen and permanent resident of Ariyalur, and he is also an active member of the various social and cultural organizations working for the development of Ariyalur District. He further alleged that this writ petition has been filed in the interest of the general public, who are very much affected by the impugned notification and the consequent merger of Ariyalur District with Perambalur District. It is alleged in paragraphs 5, 6 and 7 of the affidavit filed in support of the writ petition that citizens who wanted the bifurcation of Perambalur district and the formation of a separate Ariyalur District held agitations. Thereafter, the then Chief Minister of Tamil Nadu announced the formation of Ariyalur District with its headquarters at Ariyalur in a public function on 16.05.1999. The Government of Tamil Nadu appointed a one-man committee to examine the various aspects of the issue relating to the creation of a new District with headquarters at Ariyalur. After receiving the recommendations of the one-man committee the Government of Tamil Nadu issued G.O.Ms.No.679, Revenue (RA-I) Department, dated 24.12.1999, for the creation of a separate district called Ariyalur District with its headquarters at Ariyalur, which consisted of three revenue divisions. Thereafter, the Government of Tamil Nadu in exercise of its power under Section 1 of the Tamil Nadu District Limits Act, 1865 issued G.O.Ms.No.656, Revenue Department, dated 29.12.2000 notifying the bifurcation of Perambalur District with headquarters at Perambalur, consisting of one revenue division and three taluks, and Ariyalur District with headquarters at Ariyalur, consisting of two revenue divisions and three taluks. The Government has also sanctioned the necessary funds for the newly formed Ariyalur District in G.O.Ms.No.657, Revenue, dated 29.12.2000. The newly formed Ariyalur District was inaugurated on 01.01.2001. It is further alleged that after the formation of the Ariyalur District the administrative functions are going on smoothly and the maintenance of law and order became easier.

4. In paragraph-12 of the petitioner's affidavit it is further alleged that after the general election held in 2001, the former Government was dislodged and the present Government came into power in the State of Tamil Nadu. Subsequently, the Government announced the merger of Ariyalur District with Perambalur District, and it is alleged that this was done with mala fide intention and without following the due process of appointing an expert committee, and without calling upon opinions from the concerned District Collectors and taking the opinion of

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the social organizations and the general public. Because of this merger there is a lot of unrest among the people of Ariyalur. Hence, this writ petition has been filed as a public interest litigation.

5. A detailed counter affidavit has been filed by respondents 1, 2 and 3, and we have carefully perused the same. In paragraph 12 of the counter affidavit it is stated that a one-man committee headed by Principal Commissioner and Commissioner of Revenue Administration on the bifurcation and formation of the new Ariyalur District highlighted unviability of the creation of the new districts by bifurcating such tiny districts. In paragraph-13 it is stated that as per the census report of the year 2001 the population of Ariyalur is only 6.94 lakhs while that of the Perambalur District is 4.87 lakhs. Thus, the population of both the districts put together is only 11.81 lakhs. Because of its smallness both in extent and in population, it has become unviable. In paragraph 14 of the counter affidavit it is stated that comparison cannot be made with Dharmapuri District which has a vast population of over 28 lakhs. Dharmapuri has an area of 9581 Sq Km, while Peramabalur and Ariyalur districts both combined have only an area of 3701 Sq Km and population of only 11.81 lakhs. In paragraph 15 it is stated that the address of the Governor announcing the merger of Ariyalur with Perambalur was with a view to increase the administrative efficiency. In paragraph 16 it is stated that normally the intention of the Government in bifurcating the administrative unit of the district is to give viable administration and also to improve the backward areas. Since, Ariyalur is having plenty of natural resources particularly lime stone, 7 cement factories, power generation plant, etc., it cannot be called a backward area. In paragraph 20 it is stated that the districts were merged in order to reduce the expenditure and to improve the administrative efficiency. In paragraph 22 of the counter affidavit it is stated that huge expenditure was being incurred in running a tiny district administration and after the merger of the two districts the expenditure on administration has come down and administrative efficiency has also improved. Further, it is denied that there was any mala fide intention in passing the impugned order. It is also alleged in paragraph 25 of the counter affidavit that it is the prerogative and policy decision of the State Government to merge both the districts.

6. Section – 1 of the Madras District Limits Act, 1865 states

> "it shall be lawful for the State Government from time to time to alter the limits of existing Districts or Zilas".

7. In our opinion, the above provision is wide enough to give powers to the State Government to merge two districts. We do not accept the submission of the learned counsel for the petitioner that this provision only permits the State government to alter limits of a district, but not to merge two districts. In our considered opinion, alteration includes merger. Hence, we find no substance in the submission of the learned counsel for the petitioner.

8. The learned counsel for the petitioner relied on the decision of the Allahabad High Court in Civil Miscellaneous Petition No.2443 of 2004 (Rakesh Kumar Sharma & Others Vs. State

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of U.P. & Another) dated 21.05.2004. We have carefully perused the judgment of the Allahabad High Court and we respectfully disagree with the same. In our opinion, the Courts should exercise judicial restraint in such matters and not encroach upon the executive or legislative domain. The entire theory of judicial restraint has been laid down by this Court after referring to the various decisions of the Supreme Court of India, Supreme Court of United States of America, British decisions, etc. in Rama. Muthuramalingam, State Propaganda Committee Member, Thanthai Periyar Dravidar Kazhagam Vs. The Deputy Superintendent of Police, Mannargudi, Tiruvarur District & Others, 2004 (5) CTC 554. Hence, we are not repeating the same, and the same may be referred to. We are in full agreement with the decision of the Division Bench of this Court in Rama. Muthuramalaingam's Case (supra), and we reiterate the view expressed in that decision. The impugned order is an administrative order made for reducing expenditure, particularly in small districts, and it cannot be said to be wholly arbitrary. It is not proper for the judiciary to interfere with such administrative orders, as held in Rama. Muthuramalingam's Case (supra).

9. For the reasons given above, the writ petition is dismissed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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Copy to:-

1. The Chief Secretary to Govt.,
   The State of Tamil Nadu,
   Fort St.George,
   Chennai - 9.

2. The Secretary to Government,
   Revenue Department,
   Fort St.George,
   Chennai - 9.

3. The Principal Commissioner &
   Commissioner of Revenue Administration,
   Ezhilagam, Chennai - 600 005.

+ 1 CC to Mr.G.Purushothaman, Advocate SR NO 1286

+ 1 CC to Govt. Pleader SR NO 1317

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